

JFL 1614

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By

*Vi Yarasontos*

(Signature of person mailing)  
Vi Yarasontos

(Typed or printed name of person)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Farzan Rastinejad, et al.:

APPLICATION NO.: 09/863,976

Examiner: Delacroix Muirhei, Cybille

FILING DATE: May 23, 2001

Group Art Unit: 1614

TITLE: METHODS AND COMPOSITIONS :  
FOR RESTORING  
CONFORMATIONAL STABILITY  
OF A PROTEIN OF THE P53  
FAMILY

Mail Stop AMENDMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA. 22313-1450

Sir:

Reply to Official Communication

The present Reply is in response to the Official Communication of June 16, 2005 whereinby the Patent Office advised that, in its opinion, Applicant's previous Amendments do not constitute a complete response to the then-pending Official Action. The sole grounds for the issuance of the Communication appears to be that, rather than referencing particularized information surrounding the biological deposit of hybridomas from which certain monoclonal antibodies can be expressed, Applicant instead only made "a general allegation of availability". The rejection is respectfully traversed since Applicant specifically pointed out that the materials in question are commercial reagents from a known source, which was identified.

Contrary to what may be the apparent position in the Official Communication of June 16, 2005, there is no statutory requirement that a biological deposit be made just because a monoclonal antibody is involved, nor that a date of deposit be provided, nor that the address of a depository be provided, and the like, UNLESS the requirements of 35 USC section 112 are not otherwise satisfied. Since, in this case, the statutory standards of section 112 are satisfied, the "ins and outs" of biological deposit practice need not be addressed.

37 CFR 1.802(b) provides, in part.....

"Biological material need not be deposited, inter alia,  
if it is known and readily available to the public...."

The present Applicant did not invent the monoclonal antibodies mentioned in the Specification that are representative of those that are useful as a species example of how their more generic assays inventions can be practiced. Rather, the antibodies were purchased. The antibodies are commercially available from the Calbiochem division of EMD Biosciences, La Jolla, California, and are stock items. The catalog number for Mab 1620 is "OP-33" and the catalog number for Mab240 is "OP-29". In the Supplemental Reply of March 17, 2005, at page 2 thereof, Applicant specifically amended the Specification to indicate a specific commercial source and availability of these reagents.

Conclusion

Applicants hope that the above explanation is sufficient to remove any confusion that is present. Since it is possible that a copy of Applicant's Reply with Amendment of March 17, 2005 has been lost from the file, a duplicate copy is attached. An early and favorable reply is respectfully requested.

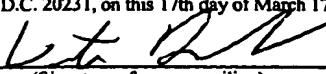
Respectfully submitted,

Date: 7-1-05

  
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By 

(Signature of person mailing)  
E. Victor Donahue

(Typed or printed name of person)



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF: Farzan Rastinejad et al. :

APPLICATION NO.: 09/443,542 : Examiner: Gregory W. Mitchell

FILING DATE: November 19, 1999 : Group Art Unit: 1617

TITLE: METHODS AND COMPOSITIONS FOR :  
RESTORING CONFORMATIONAL  
STABILITY OF A PROTEIN OF THE p53  
FAMILY

**COPY**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Reply under 37 CFR 1.111

The present Reply is in response to the non-final Official Action of September 22, 2004 whereinby all of the pending claims (Nos. 26-35) remain rejected. Careful consideration has been given to the Examiner's rejections, however Applicant does not believe that any significant narrowing of the claims is necessary or appropriate. Reconsideration is respectfully requested.

Currently only claims 26-35 are under consideration. Both elected compound species X and the treatment of cancer read on claim 26. No further cancellation of subject matter is appropriate at this time. The "new" rejections seem mostly to be a repeat of previously presented rejections, many of which were presumably withdrawn in view of Applicant's prior remarks.

First (referring to Page 8 of the Official Action) it is stated that the Applicant "admits" the state of the prior art. Although the Patent Office apparently recognizes "that the present invention provides the first demonstration that non-peptide organic compounds can interact with a protein of the p53 family and promote its wild-type activity", the Patent